IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 354 of 2001
(Old No. 2504 of 1999)

1. Harish @ Heera S/o Dila Saini
   R/o Village Ismailpur
   P.S. Laskar, Haridwar
2. Dharam Veer S/o Raghunath Saini
   R/o Village Pherupur
   P.S. Laksar (Pathri)
   Haridwar ... Applicants

Vs

State of U.P.

... Respondent

Sri Parikshit Saini, learned counsel for the petitioners
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the applicants for quashing the chargesheet dated 18.05.1998 filed by the C.B.C.I.D. as well as the proceeding in Case No. 803 of 1999 State Vs Prem Veer @ Prem and 2 others under Section 307 I.P.C. and under Section 3 (1)(10) S.C./S.T. Act pending in the court of A.C.J.M., Haridwar.

2. Brief facts giving rise to this petition are that the First Information Report was lodged on 23.03.1996 against the petitioners. Thereafter, the police investigated the matter and the injured did not disclose the name of he accused persons. After completion of the investigation, the police submitted the final report on 18.06.1996.

3. After submission of final report, the injured Dharampal at the instance of rival political group of the applicants made a representation for further investigation in the case. The State Government on 17.03.1997 directed C.B.C.I.D. for further investigation. The C.B.C.I.D. on 05.04.1997 started investigation and submitted the cahrgesheet against the applicants on 18.05.1998.

4. The Magistrate after having perused the documents available on record took cognizance against the petitioners on 18.05.1998.

5. Feeling aggrieved by the aforesaid impugned summoning order, this petition has been filed by the petitioners for quashing the chargesheet as well as criminal proceedings pending before the court below.

6. Heard Sri Parikshit Saini, learned counsel for the petitioners, learned A.G.A. for the State and perused the record.

7. After having considered the arguments of the learned counsel for the petitioners, I am of the view that there is no abuse of process of court in this case. I am not supposed to act as a trial judge in order to assess the evidence which are still incomplete and hazy. It is for the trial judge to appreciate the evidence, which is yet to lead by the parties concerned before him. While exercising the jurisdiction under Section 482 Cr.P.C., I am not supposed to pre-judge, the police paper and any discrepancies therein

8. I do not find any ground for quashing the criminal proceedings at this stage. Therefore, the petition lacks merit and is liable to be dismissed.

9. Accordingly, the petition is dismissed.

(B.C. Kandpal, J.)

04.08.2006
ASWAL